

# IOWA DEPARTMENT OF NATURAL RESOURCES ADMINISTRATIVE CONSENT ORDER

<b>IN THE MATTER OF:</b>  Iowa County Sanitary Landfill  Wastewater Facility No. 6-48-00-9-04	<b>AMENDMENT TO ADMINISTRATIVE CONSENT ORDER NO. 2011-WW-08-A1</b>
---	--

**TO: Adam Grier, Chairman**  
Board of Directors  
Regional Environmental Improvement Commission  
3369 Highway 6 Trail  
P.O. Box 371  
Marengo, Iowa 52301

## I. SUMMARY

This amendment to administrative consent order No. 2011-WW-08 (Amended Order) is entered into between the Regional Environmental Improvement Commission (REIC) and the Iowa Department of Natural Resources (DNR) for the purpose of modifying the compliance schedule for modifications to its operations and/or for the completion of improvements to the wastewater treatment facilities at the Iowa County Sanitary Landfill to allow this facility to comply with ammonia effluent limitations in its NPDES Permit. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Wendy Hieb  
Environmental Specialist  
NPDES Section  
502 East 9<sup>th</sup> Street  
Des Moines, IA 50319-0034  
Ph: (515) 281-7804

**Relating to legal requirements:**

Jon C. Tack  
Attorney  
Iowa Department of Natural Resources  
502 East 9th Street  
Des Moines, Iowa 50319-0034  
Ph: (515) 725-8239

## II. JURISDICTION

The parties hereby agree that this amended order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
REGIONAL ENVIRONMENTAL IMPROVEMENT COMMISSION**

455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. The Iowa County Sanitary Landfill is a municipal solid waste sanitary landfill (RCRA Subtitle D Non-Hazardous Waste Landfill) located at 3369 Highway 6 Trail, Homestead, Iowa 52236 ("Facility"). The Facility is located two miles east of Homestead, Iowa on 120 acres. The legal description is Section 1, I 80N, 9 RW, Iowa County, Iowa. This Facility is operated by the REIC. The REIC operates a wastewater treatment system that consists of a continuous discharge three cell aerated lagoon system. Landfill leachate is collected and transported through underground pipes to the aerated lagoon system for treatment.

2. The Department issued an NPDES permit to the Facility on May 29, 2011, which permit was last amended August 8, 2014. The April 1, 2014 amended NPDES permit is under appeal.

3. The current NPDES permit contains effluent limits for ammonia with which the Facility cannot immediately comply and the Facility has requested a schedule that will allow it time to evaluate processes, determine a course of action and implement changes that will allow it to comply. The Department has found that a schedule is both necessary and appropriate and that the Facility's recommended schedule will result in compliance as soon as possible.

4. Since the issuance of the prior administrative order in this case, the REIC and the DNR have been engaged in discussions to identify the most practical methods to achieve compliance with ammonia effluent limitations. Questions were raised in regard to the classification of the receiving water body and the appropriate sampling locations. These extended discussions have caused a delay in the initiation of engineering design work. It is now the intention of REIC to install a breakpoint chlorination treatment system, which system has been initially reviewed by DNR. REIC will be submitting an Antidegradation Alternatives Analysis in the near future, which analysis has been initially reviewed by DNR. Once the DNR has approved an Antidegradation Alternatives Analysis, REIC will submit a preliminary engineering report. Following timely DNR approval of REIC submittals, the alternative selected by REIC in the Antidegradation Alternatives Analysis shall constitute the "Improvements" referenced in this Amended Order. The parties agree that the compliance schedule previously established should be extended at this time to allow for the design, permitting and construction of the Improvements.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
REGIONAL ENVIRONMENTAL IMPROVEMENT COMMISSION**

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60- 64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of an operation permit. Subrule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

3. BPT and BAT federal regulations for landfills were promulgated on January 19, 2000 at 65 FR 3048, with an effective date of February 2, 2000. See 40 CFR Part 445 and more specifically 40 CFR 445.1- 445.3 and 40 CFR 445.20- 24. Department rules were amended to incorporate by reference the federal standards into 567 IAC 62.4(45), with an effective date of December 20, 2000.

Department subrule 567 IAC 62.4(45) adopts by reference the federal regulations found in 40 CFR Part 445 for the landfills point source category. The provisions that are applicable to this particular landfill are the general provisions of 40 CFR 445.1- 445.3 as well as the provisions for RCRA Subtitle D non-hazardous landfills found in 40 CFR 445.20- 445.24. These provisions include, among other parameters, effluent limitations for BOD<sub>5</sub>, TSS and ammonia as N.

4. The Environmental Protection Agency (EPA) regulations, found at 40 CFR 122.47, allow permit writers to establish schedules of compliance in NPDES permits to give permittees additional time to achieve compliance with the Clean Water Act (CWA) and applicable regulations. Department rules also allow for the inclusion of compliance schedules in permits. See 567 IAC 64.7(4). Schedules developed under these provisions must require compliance by the permittee as soon as possible, but may not extend the final compliance date beyond the compliance dates of the CWA.

REIC is considered an existing source for the purpose of determining the applicability of the federal effluent standards adopted by the Department for landfills. For existing sources the facility must comply with new standards when their NPDES permits are issued, renewed or modified. Due to this, a schedule for compliance cannot be included in the NPDES permit for this facility. However, the *U.S. EPA NPDES Permit Writers Manual* (December 1996) on page 149 states: "In situations where the permittee will be unable to meet permit conditions, and where a compliance schedule pursuant to 40 CFR §122.47 is not permitted, the practical alternative is to initiate an Administrative Order under Section 309 of the CWA (containing a schedule of compliance) concurrent with

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
REGIONAL ENVIRONMENTAL IMPROVEMENT COMMISSION**

permit issuance." In view of this guidance, the Department and REIC have agreed to the issuance of this consent order with a schedule. This Consent Order, as amended, will govern compliance dates for the Facility, notwithstanding the NPDES permit. DNR intends to amend the current NPDES permit to refer to this Consent Order, as amended, with schedule.

**V. ORDER**

THEREFORE, the Department orders and the REIC agree to comply with the following amended provisions in order to cease, abate, and redress the above-cited violations:

The Improvements at the Facility are required to be completed in accordance with the following schedule:

1. The REIC shall complete an Antidegradation Alternatives Analysis and post said analysis for public comment by January 15, 2015. REIC has timely complied with this requirement. No public comments were received.
2. By March 6, 2015, the REIC shall submit the Antidegradation Alternatives Analysis to the DNR. REIC has timely complied with this requirement.
3. By April 1, 2015, the DNR shall notify REIC of any additional information needed or deficiencies in the Antidegradation Alternatives Analysis.
4. The REIC shall complete construction of Improvements by December 1, 2015, assuming timely approval of the Facility Plan by DNR.
5. The REIC shall achieve compliance with all final effluent limits by December 15, 2015.
6. No later than January 1, 2016, the REIC shall provide written notice of compliance to Wendy Hieb, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, IA 50319 and Field Office No. 6, Iowa Department of Natural Resources Field Office No. 6, 1023 West Madison Street, Washington, IA 52353
7. Nothing in this Consent Order, as amended, shall prohibit the REIC from making operational or other changes to the Facility to achieve compliance with the NPDES permit as long as such changes are made in compliance with applicable law.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
REGIONAL ENVIRONMENTAL IMPROVEMENT COMMISSION**

**VI. PENALTY**

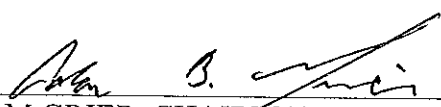
The Department has determined that the most effective and efficient means of addressing the issues raised in this amended order is the issuance of an amended order without the assessment of administrative penalties.

**VII. WAIVER OF APPEAL RIGHTS**

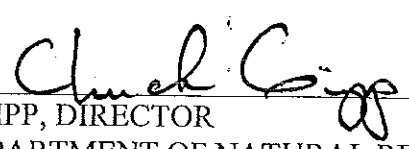
Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This amended order is entered into knowingly by and with the consent of the REIC. By signature to this amended order, all rights to appeal this order are waived.

**VIII. NONCOMPLIANCE**

Compliance with Paragraph V. of this amended order constitutes full satisfaction of all requirements pertaining to the violations described in this amended order. Failure to comply with this amended order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

  
\_\_\_\_\_  
ADAM GRIER, CHAIRMAN  
BOARD OF DIRECTORS  
REGIONAL ENVIRONMENTAL  
IMPROVEMENT COMMISSION

Dated 04/22/15

  
\_\_\_\_\_  
CHUCK GIPP, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated 5/4/2016

NPDES permit No. 6-48-00-9-04; Wendy Hieb, NPDES Section, Field Office No. 6.; I.B.2.b.

01092263-1\23050-001